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10/034,042

12/27/2001

Maris Vistins

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EXAMINER

LEE, EDMUND H

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

03/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/034,042 | VISTINS, MARIS | |
| | Examiner | Art Unit | |
| | EDMUND H. LEE | 1791 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-49 is/are pending in the application.
- 4a) Of the above claim(s) 33,45 and 47-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-32,34-44 and 46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 33 and 47-49 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9/26/05 and 12/3/07. It should be noted that claim 45 should be included in the list of withdrawn claims since it is drawn to a second layer that at least partially overlaps the first layer. Claim 45 has been included in the list of withdrawn claims; thus claims 33, 45, and 47-49 are withdrawn.
2. Applicant's election without traverse of claims 27-32, 34-44, and 46 in the reply filed on 9/26/05 and 12/3/07 is acknowledged.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
4. It should be noted that scope of claim 38 has been limited to a glove since applicant has elected without traverse to limit claims to a glove. See applicant's election filed 3/5/04.
5. Claims 27,28,30,31,32,38,39,41,42, and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Schindler (USPN 3852826). Schindler teaches the claimed product as evidenced at col 2, lns 10-15 and 28-35; col 3, lns 64-67; and 1-2.
6. Claims 27,28,30,31,32,34,35,38,39,41,42, and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Richardson et al (USPN 5817365). Richardson

et al teach the claimed product as evidenced at col 3, lns 60-65; col 4, lns 11-17 and 60-64; col 6, ln 59-col 7, ln 8; abstract; figs 1 and 3.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 29,34,35,36,37,40,43, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schindler (USPN 3852826). The above teachings of Schindler are incorporated hereinafter. In regard to claim 29, the observable contrast is a characteristic that can be determined through routine experimentation and is dependent on the desired final product. Further, the claimed contrast is well-known in the art. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to set the contrast between the layers of Schindler at the claimed value in order to ensure distinction. In regard to claim 34, it is well-known in the glove art to completely cover a first layer with a second layer. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to completely cover the first layer of Schindler with the second layer in order to form a diverse product. In regard to claims 35-37, additional layers are well-known in the glove art for improved protection and aesthetic appeal. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the claimed additional layers in order to improve protection and aesthetic appeal. In regard to claim 40, the claimed material is well-known in the glove art. Thus, it would have been obvious to

one of ordinary skill in the art at the time the invention was made to use the claimed materials in the glove of Schindler in order to form a durable and functional glove. In regard to claim 43, the observable contrast is a characteristic that can be determined through routine experimentation and is dependent on the desired final product. Further, the claimed contrast is well-known in the art. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to set the contrast between the layers of Schindler at the claimed value in order to ensure distinction. In regard to claims 46, additional layers are well-known in the glove art for improved protection and aesthetic appeal. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the claimed additional layer in order to improve protection and aesthetic appeal.

9. Claims 29,36,37,40,43,and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson et al (USPN 5817365). The above teachings of Schindler are incorporated hereinafter. In regard to claim 29, the observable contrast is a characteristic that can be determined through routine experimentation and is dependent on the desired final product. Further, the claimed contrast is well-known in the art. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to set the contrast between the layers of Schindler at the claimed value in order to ensure distinction. In regard to claims 36-37, additional layers are well-known in the glove art for improved protection and aesthetic appeal. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was

made to include the claimed additional layers in order to improve protection and aesthetic appeal. In regard to claim 40, the claimed material is well-known in the glove art. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the claimed materials in the glove of Schindler in order to form a durable and functional glove. In regard to claim 43, the observable contrast is a characteristic that can be determined through routine experimentation and is dependent on the desired final product. Further, the claimed contrast is well-known in the art. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to set the contrast between the layers of Schindler at the claimed value in order to ensure distinction. In regard to claims 46, additional layers are well-known in the glove art for improved protection and aesthetic appeal. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the claimed additional layer in order to improve protection and aesthetic appeal.

10. Applicant's arguments with respect to claims 27-32, 34-44, and 46 have been considered but are moot in view of the new ground(s) of rejection.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. USPN 2293928 teaches the state of the art.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDMUND H. LEE whose telephone number is 571.272.1204. The examiner can normally be reached on MONDAY-THURSDAY FROM 9AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571.272.1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1791

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EDMUND H. LEE
Primary Examiner
Art Unit 1791

EHL

/EDMUND H. LEE/
Primary Examiner, Art Unit 1791